REMARKS

In response to the Office Action dated April 4, 2007, the Assignee respectfully requests reconsideration and entry of the above amendments and the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited document to *Marsh*.

Claims 1-6, 8-9, 11-15, and 17-20 are pending in this application.

In the April 4, 2007 office action, all the pending claims were withdrawn from consideration. This office action explains that an overrideable "advertisement time slot" is a separate and distinct invention from the originally-claimed overrideable "advertisement." During a phone conversation with Examiner Van Bramer, the Examiner suggested removing "time slot" from the amended claims and resubmitting the response.

The Assignee adopts Examiner Van Bramer's suggestion and resubmits this response.

Rejection of Claims under § 102

Claims 1, 3-10, 12-18, and 20 were rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent 5,848,397 to Marsh *et al.* A claim is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P.").

Claims 1, 3-10, 12-18, and 20 are not anticipated. These claims recite, or incorporate, many features that are not disclosed by *Marsh*. Independent claims 1, 9, and 17, for example, recite "*determining whether the advertisement and the different advertisement are nearly equal in time length.*" Support for such features may be found at least at page 11, line 33 through page 12, line 1 of the as-filed application. Independent claim 1 also recites "*when the advertisement is*

categorized as overrideable, and when the advertisement and the different advertisement are nearly equal in time length, then replacing the advertisement with the different advertisement." Independent claim 1 is reproduced below, and independent claims 9 and 17 recite similar features.

1. An advertisement management method, comprising:

receiving programming content delivered as a scheduled lineup having an advertisement inserted into a future advertisement time slot;

categorizing the advertisement as overrideable or non-overrideable, the overrideable categorization allowing the advertisement to be replaced with a different advertisement, and the non-overrideable categorization not allowing replacement of the advertisement and allowing the advertisement to be delivered as scheduled;

receiving an advertiser's request to replace the advertisement with the different advertisement;

determining whether the advertisement is categorized as overrideable;

determining whether the advertisement and the different advertisement are nearly equal in time length; and

when the advertisement is categorized as overrideable, and when the advertisement and the different advertisement are nearly equal in time length, then replacing the advertisement with the different advertisement.

Marsh fails to anticipate at least these features. No where does *Marsh* disclose "*determining whether the advertisement and the different advertisement are nearly equal in time length.*" The patent to Marsh *et al.* completely fails to make such a determination.

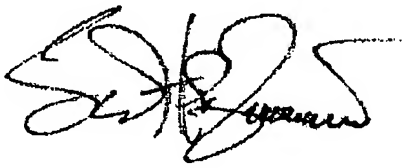
Marsh, then, cannot anticipate claims 1, 3-10, 12-18, and 20. Because *Marsh* fails to disclose many features recited in these claims, Examiner Van Bramer is respectfully requested to remove the § 102 (e) rejection of claims 1, 3-10, 12-18, and 20.

Rejection of Claims under 35 U.S.C. § 103 (a)

Claims 2, 11, and 19 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Marsh*. These claims, however, depend from their respective base claims and, thus, incorporate the same distinguishing features. As the above paragraphs explained, *Marsh* is entirely silent to "*determining whether the advertisement and the different advertisement are nearly equal in time length.*" The patent to Marsh, *et al.* is also silent to "*when the advertisement is categorized as overrideable, and when the advertisement and the different advertisement are nearly equal in time length, then replacing the advertisement with the different advertisement.*" One of ordinary skill in the art, then, would not think that claims 2, 11, and 19 are obvious. Examiner Van Bramer is thus respectfully requested to remove the § 103 (a) rejection of claims 2, 11, and 19.

If any questions arise, the Office is requested to contact the undersigned at (919) 469-2629 or *scott@scottzimmerman.com*.

Respectfully submitted,



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